



THE GOVERNMENT RESPONSE TO THE SECOND REPORT FROM THE
HOUSE OF COMMONS SCIENCE AND TECHNOLOGY COMMITTEE
SESSION 2013-14 HC 610:

Forensic science

Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty

November 2013



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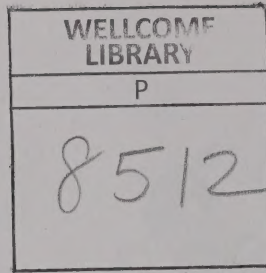


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GOVERNMENT RESPONSE TO THE SCIENCE AND TECHNOLOGY SELECT COMMITTEE REPORT ON FORENSIC SCIENCE

The Government welcomes the contribution of the Science and Technology Committee to the debate on forensic science and thanks the Committee for its recommendations. In responding to the Committee's recommendations, we address matters that relate to Government's policy on forensic science. The Government is committed to strengthening the use of forensic science to improve public safety. The first part of this plan is to strengthen the powers of the Forensic Regulator to set standards for forensic science. We have today launched a consultation setting out our proposals in this area.

Direct costs of closing the FSS

Committee comments

1. In relation to direct costs to the Home Office, the FSS transition appears to have been well managed. However, the Minister's logic around the value for money of closing the FSS was weak. First, it was based on the flawed statistic that the FSS was losing £2 million a month and was therefore inaccurate. Second, it was a simplistic interpretation that did not appear to consider whether closing the FSS had incurred additional costs to the public purse elsewhere, for example to police forces. (Paragraph 7)

Response

The Government's decision to close the FSS was based on accurate financial information and has delivered value for money to the police as well as addressing the unacceptable company losses being funded by the taxpayer. Company losses were increasing before the closure decision and it lost £2m per month on average as its position deteriorated in the three months leading up to the decision.

The Committee notes that the company lost £1.6m on average over the full year 10/11. We do not believe it is logical to base any consideration of the FSS's financial position on a 12-month average in this way. Work to begin the wind-down of the company had an effect on its income and expenditure which makes such an average an ineffective measure of the overall position. The deterioration of the company's position over the months before the closure decision was clear. Despite receiving significant financial aid from public funds, the position continued to be one of deepening difficulty.

In respect of the cost to the police, a significant amount of the work conducted by FSS for the police had not been subject to competition under national framework tenders and was therefore subject to high prices. Work which had already been competed and awarded to other providers prior to the FSS's closure had demonstrated that comparable services were available at a lower cost. When the remainder of the work was procured during the transition process the police were indeed able to achieve *savings* against the previous FSS pricing structure – not a cost as the Committee suggests.

Police expenditure

Committee comments

3. We were disappointed that the Government appeared to rely on beliefs and impressions of in-sourcing and market size rather than evidence. Without access to full police expenditure figures we are not able to draw conclusions on the extent to which police in-sourcing of forensic activities has led to a shrinking of the external forensics market. (Paragraph 17)

Response

It is this Government's policy to avoid imposing unnecessary bureaucracy on police forces. Police force's accounts report actual spending against budgets; the police already report on the cost of supplies and services according the area of police activity to which they relate. To collect data on the split between external procurement of services and the cost of supplies purchased for activities which have never been outsourced, or to determine which of their scientific staff worked in areas that may have previously been outsourced would place a disproportionate bureaucratic burden on forces. We have sufficient intelligence on the state of the market already through our contact with forces and suppliers. A recent exercise, working with police forces to determine external spend on forensic services, has been completed and contributions are currently being analysed.

We do not agree with the Committee's suggestion that in-sourcing is the cause of the shrinking market. The Government worked closely with ACPO and other service users during the transition of services away from the FSS. During this period it was clear that in general the police were not seeking to draw outsourced work in-house. This view is supported by the Forensic Science Regulator's supplementary evidence to the Committee which outlines the work for which forces are seeking accreditation, the majority of which is work that the police have historically conducted in-house. The exception to this was those services in London which the Metropolitan Police have drawn in-house through their take over of the FSS Lambeth Laboratory. However overall the reduction in market size is a measure of forces using forensic services more efficiently and getting better value for money – not taking on work from the private sector.

Committee comments

4. We are concerned that the continuing uncertainty over the current and future size of the market risks undermining the willingness and capacity of private forensic providers (FSPs) to operate and invest in that market. The Home Office and Association of Chief Police Officers (ACPO) should immediately establish a working group to review the accounting practices of police forces to introduce consistency and standardisation. In the interests of public accountability, transparency and business planning for companies in the market, full police accounts, including all forensic science expenditure, should be published annually. Police and Crime Commissioners have a role in providing stronger and more transparent accountability of the police and should support this work. (Paragraph 18)

Response

The Government agrees that police accounts should be published annually, and they are. These usually appear on individual forces' websites. In addition, all the data from the accounts is collated and managed by the Chartered Institute of Public Finance and Accountancy (CIPFA). Police and Crime Commissioners are responsible for holding chief constables to account and of course the availability of financial information is an important part of that accountability. If there are indeed issues to be addressed with police forces' accounting practices then the relevant PCC will take these matters forward with their individual force.

The Home Office is fully aware of the risks to the market and is in regular contact with both police customers and suppliers through the Marketplace Management Team. The national policing lead on forensic procurement, Deputy chief constable James Vaughan, holds a regular strategic marketplace forum where commercial matters such as this are addressed. This includes maintaining an awareness of any potential fluctuations in the market together with emerging strategic plans from the forces.

Committee comments

5. We further recommend that the National Audit Office (NAO) should examine whether forensic science activities conducted by police forces internally represent value for money for taxpayers. This study should look at value for money across the CJS as well as the police. (Paragraph 19)

Response

The Home Office's Forensic Policy Group provides cross Government representation on issues including value for money across the CJS. Data on the use of DNA and fingerprint evidence by police forces, from collection at crime scenes through to its contribution to crime detection, is collected from every police force as part of the annual data requirement and provides a picture of effectiveness nationally and for each force. As set out in response to many of the Committee's recommendations, value for money is being delivered and improved upon. We would support any work able to build on this, including any decision by the National Audit Office to examine forensic service provision in more detail.

Forensic service procurement

Committee comments

6. We are disappointed that the Government and police do not appear to have acted on our recommendations on controlling further police in-sourcing and building up evidence on fragmentation when developing the National Forensic Framework - Next Generation (NFFNG). (Paragraph 31)

Response

Police forces make their own decisions on procurement, in the best interests of the force. This will include avoiding any fragmentation that might be detrimental to a case. The NFFNG assists forces in this process in a number of ways set out below and provides value for money. Its purpose is not to mandate forces.

The NFFNG actively promotes collaboration - forces tender as a region and best practice and lessons learnt are shared nationally so that ongoing competitions under the NFFNG can benefit from experiences of earlier competitions. The NFFNG ensures that specific requirements are clearly laid out to the market place via the regional requirements narrative which forms part of the mini-competition tender documentation. The ongoing management of the resulting contracts is also managed on a regional basis. The two regional mini-competitions using the NFFNG have so far involved a collaboration of 14 forces and five forces respectively.

The NFFNG does not, in itself, lead to fragmentation as sole suppliers can be (and are) used on any one case. Cases do not need to be split or fragmented between suppliers. In fact it would be very unusual for individual cases (especially major cases) to be split across suppliers under NFFNG.

In addition, as part of the roll-out of the NFFNG, training is provided by the Home Office's Forensic Marketplace Management Team to forces and regions, covering a broad range of topics including avoiding fragmentation.

Committee comments

7. Although there are benefits (particularly to police forces), some aspects of the NFFNG appear to be unpopular amongst private FSPs. It is more complex than its predecessor and does not encourage a partnership approach towards procurement of forensic services. It has also increased the administrative burden on FSPs, which risks affecting smaller companies disproportionately. This is surprising given the Government is generally intent on decreasing bureaucracy and burdens on businesses. In the interests of market stability, we are hesitant to advocate significant changes to the NFFNG. However, we consider that the NFFNG itself is currently contributing to market instability by encouraging short term contracts. Fortunately, police forces are not compelled to use it. We support the concept of regional collaborations between police forces when procuring forensic science services. As well as potentially being cost effective it reduces the complexity of customer demand for FSPs. We encourage police forces to adopt collaborative procurement models similar to that used by forces in the North East instead of the NFFNG. We consider that a partnership approach towards procurement of forensic services would result in better forensic science and a better outcome for the CJS. Police forces should also seek to realise the potential for regional collaborations wherever possible. We also encourage forces to be cognisant of the important warnings given by eminent scientists, such as Dr Tully, about the dangers of fragmentation in procurement. (Paragraph 32)

Response

The Government does not accept the Committee's comments on the NFFNG. The NFFNG delivers benefits to FSPs as well as forces, and actively supports smaller suppliers and promotes competition in a way regional collaborations cannot. The NFFNG will support long term partnerships where they benefit forces and protect market stability, but with the flexibility to adopt other options where appropriate. As the Committee acknowledges, forces are not compelled to use the NFFNG - yet the vast majority choose to do so, because of the benefits it provides.

The national forensic framework (NFFNG) was developed in response to police requests for greater co-ordination in forensic procurement, and delivers many benefits including savings to the police of between 5% and 15%. Some

administration is required, but there are also significant reductions where requirements are undertaken centrally. We do not agree the NFFNG has any bias towards larger companies and are working continually with the smaller providers to better understand their difficulties and any barriers to winning work.

The NFFNG does not lead to the 'fragmentation of evidence' as police forces can (and invariably do) keep the larger, more complex cases with a single supplier.

The NFFNG does not lead to short-term contracts. Contracts can be anything up to four years in length. EU procurement regulations dictate that contracts awarded under a framework agreement cannot be longer than four years. Police forces' behaviour so far indicate the preferred contract duration (depending on service types) is between two and three years, with options to extend to the maximum of four.

We support a longer term partnership approach with suppliers and intend to develop this approach further in readiness for the third iteration of the framework. With the more complex casework services, a long term partnership arrangement could be the best option, so that strategic alliances can be developed over time, encouraging long term investment from suppliers and potentially leading to a higher level of service to the CJS.

With many of the 'commodity' type services such as processing of DNA taken on arrest, a long term partnership may not be the best solution or represent value for money, as forces need to take advantage of rapidly developing technologies as opposed to being 'locked-in' with any single supplier.

The Government does not agree with the Committee's recommendations on regional collaboration. It is important to recognize that a requirement for a single provider to provide all forensic requirements for a whole region can limit competition. It is estimated that only three of the 12 providers that are part of the NFFNG would be in a position to consider competing in this way; both being able to deliver all services required and having access to sufficient funding to resource the requirement. Small and medium enterprises (SMEs) would have no opportunity to participate. The regional mini-competitions that have taken place to date have resulted in a significant degree of success for SMEs. Around half of the successful suppliers can be classified as SMEs.

Quality standards

Committee comments

8. It appears that the FSS transition was well managed with regards to the maintenance of quality standards. We are satisfied that forensic work was not transferred from the FSS to unaccredited FSPs. (Paragraph 39)

9. Further in-sourcing, particularly in the absence of quality standards, raises serious questions about impartiality and the pressures on police scientists to produce favourable results. The Government should remain mindful that the FSS was originally established to create a separation between the police and forensic science provision. (Paragraph 41)

10. We suggest that the Law Commission continues to keep under review the issue of police impartiality in relation to the provision of expert evidence. (Paragraph 42)

Response

The Law Commission reviewed the issue of impartiality in the provision of expert evidence as part of its 2011 report 'Expert Evidence in Criminal Proceedings in England and Wales'. The Government Response to this report will address the recommendations made by the Law Commission.

Committee comments

11. The right to opt-out and then selectively opt back into pre-Lisbon EU police and criminal law measures may explain some of the Government and police complacency that we observed over police laboratory accreditation. Recognising the need for common standards, the Government should consider the consequences of not opting back into Council Framework Decision 2009/905/JHA. (Paragraph 47)

12. There is no legitimate reason for police laboratories to conduct forensic science in the absence of accreditation. We further recommend that all police laboratories should achieve and maintain accreditation to ISO 17025 for all forensic testing activities. (Paragraph 48)

13. In addition, all private FSPs and police forces should (i) adhere to the FSR's Codes of Practice and Conduct and (ii) consider the merits of achieving accreditation to ISO 17020 for crime scene activities. (Paragraph 49)

14. We consider that the FSR should have statutory powers to enforce compliance with quality standards, particularly as the forensic science landscape has now radically changed. A powerful domestic regulator will be particularly important as the UK has decided not to opt back into Council Framework Decision 2009/905/JHA. We reiterate our original recommendation that the Government should immediately bring forward proposals to provide the FSR with statutory powers and further recommend that it decides on a statutory role by March 2014. (Paragraph 51)

Response

As the Committee acknowledges, we have taken significant steps to ensure the commercial providers maintain their high standards. All suppliers of forensic services to the police via the NFFNG framework must be fully accredited and compliant with the quality standards and codes of practice set by the Regulator before any work can be undertaken.

The Regulator's principal role is to establish and monitor compliance with quality standards in the provision of forensic science services to the police service and the wider criminal justice system. The Government supports the adoption of whatever standards the Regulator considers appropriate. If a requirement for ISO17020 accreditation for crime scene activities is added to the Regulator's codes of practice, we would also expect police forces and FSPs to adhere to this requirement, within reasonable timescales. Up until now, regulation on a non statutory basis has been effective.

Further, we do not accept the Committee's assertion that the impartiality of police scientists should be called into question. National policing leads have already agreed that police forces carrying out forensic testing activities in-house will comply with the Regulator's standards and obtain the necessary accreditation, including ISO17025, and the process is well advanced. The majority of forces will complete the accreditation process for their DNA functions this year. In order to obtain this accreditation, forces must demonstrate impartiality throughout their processes and meet requirements including validation of test results and independent review of expert opinions.

There is no complacency. We are fully aware there is a risk that compliance on a voluntary basis could cease to be effective, particularly following the opt out from the EU Council Framework Decision 2009/905/JHA. Further, we realise that adoption of the standards by all providers, including defence providers, has been more difficult.

We have therefore today launched a consultation on proposals to put the role of the Regulator, and the scope of regulation, on a statutory footing, and to make adherence to the quality standards set by the Regulator mandatory for all providers, including those supplying the defence. We expect to decide on the outcome of that consultation following the appointment of the next Regulator in early 2014.

A decision to put the role of the Regulator on a statutory footing makes the decision to opt out of the Council Framework Decision irrelevant. The Regulator's codes of practice are far more comprehensive than the two specific areas of regulation brought in by the Council Decision.

Forensic science in court

Committee comments

15. In principle, we support the Forensic Science Society's project to develop a searchable database of forensic experts. (Paragraph 54)

Response

We commend this initiative, and are engaging with the Forensic Science Society on wider issues in forensic science through the cross-Government Forensic Policy Group.

Committee comments

16. We do not consider that recreating a register of experts such as the Council for Registration of Forensic Practitioners (CRFP) is necessary as it would not improve the quality of evidence provided by expert witnesses. The Government has had two years to respond to the Law Commissions proposals for an admissibility test for expert evidence and should publish its response without further delay. We recommend that the Government supports the Law Commission's proposals. (Paragraph 61)

Response

We intend to publish the Government Response to the Law Commission report on the use of expert evidence in criminal proceedings early in the autumn. The quality of evidence provided by experts carrying out forensic analysis will be addressed through the proposals in our consultation on statutory powers for the Forensic Regulator.

Committee comments

17. Although we do not consider that the Forensic Science Regulator should be involved in every, or even the majority of court cases, we can see the benefits of having an independent source of advice in cases with disputes over the quality of the forensic evidence. We await the FSR's guidance on this matter with interest. (Paragraph 62)

Response

The role of the Regulator is to set standards, not to intervene on a routine basis in ongoing court cases. It is for the courts to assess the evidence presented to them, bearing in mind the existence of the Regulator's standards.

Committee comments

18. In principle, we consider that forensic science services conducted for the defence should be subject to the same level of quality control as those for the prosecution. The Government should support the Forensic Science Regulator's efforts to extend the scope of regulation to defence experts. (Paragraph 64)

Response

The Government is committed to ensuring the quality standards set by the Regulator are maintained across the CJS. We agree that forensic services provided to the defence should be subject to the same standards as those provided to the prosecution, and are taking action to support the Regulator in this area. There is already some assurance for quality standards for the defence, as many of the FSPs which supply the police as part of the NFFNG framework, and fully meet the Regulator's quality standards as a requirement of that framework, also supply the defence. However, due to forensic services being procured by the defence on a case by case basis, and adherence to voluntary quality standards being balanced against cost, we are aware the Regulator's standards have not been implemented as widely in defence provision. Our consultation on statutory powers for the Regulator will tackle this issue, by proposing that quality standards are mandatory for any organisation providing forensic services to the criminal justice system, including provision to the defence, whether funded privately or through legal aid.

Scientific research capacity

Committee comments

19. *We do not accept that this is a correct interpretation of the Haldane principle. The Government regularly chooses to fund particular areas of research at a strategic level and then the Haldane principle is applied when detailed funding allocations are made. The Government and Research Councils should support forensic science as a strategic priority or give a comprehensive explanation as to why they haven't. (Paragraph 69)*

20. *Although it is relatively new, we welcome the Technology Strategy Board's development of a Special Interest Group in forensic science. However, it does not resolve the funding gap in forensic science. The Government should state its views on the risks to the CJS posed by this funding gap and outline how it intends to address them. (Paragraph 75)*

21. *We are disappointed that it remains as difficult as ever for forensic science researchers to obtain funding for research. Although the Silverman Review has led to some positive outcomes for forensic science, it has not addressed the chronic lack of funding faced by the sector. (Paragraph 80)*

22. *The Government should clarify (i) whether the closure of the FSS has resulted in a net loss of forensic science R&D investment in England and Wales and (ii) whether there has been a reduction in the UK's forensic science output, as measured by peer-reviewed papers and citations. (Paragraph 81)*

23. *It would be helpful if there was a complete and accurate picture of the publicly funded forensic science R&D landscape in England and Wales, including funding from Research Councils, Government departments and agencies and international sources (including EU funding). In addition, similar information from the private sector would be valuable, notwithstanding the need to protect commercial interests. (Paragraph 82)*

24. *The UK risks falling behind on the exploitation of new research and technologies, which could have adverse effects on the criminal justice system. The Home Office should follow-up the Silverman Review to evaluate the current R&D landscape and identify where reliance on outdated technologies may be jeopardising criminal justice. The Government should allocate or stimulate funding for collaborative research projects around these priorities. (Paragraph 83)*

Response

We do not agree with the Committee's suggestion that the UK is falling behind, or relying on outdated technology. This is simply not the case, and our forensic databases and techniques employed at crime scene and in laboratory analysis remain some of the most advanced in the world.

England and Wales have a robust and effective DNA database system. It uses a DNA profiling system that gives random match probabilities of in excess of one in a billion. It has the only competitive market for forensic suppliers and as a result the time taken to profile DNA samples is as good as any in the world (and far better than most). It provides matches very rapidly upon loading a DNA profile to the database when compared to other countries because it uses a single DNA

profiling chemistry. It has a range of "low template" techniques available to it for serious crimes that give sensitivities as good as any of the new profiling chemistries.

The Home Office plays an active role in developing science, and Centre for Applied Science and Technology is made up of scientists and engineers who develop technological solutions across the full range of Home Office interests, including forensics but also wider policing and crime, counter terrorism and border security.

The Home Office's Chief Scientific Advisor has written to the Department for Business, Innovation and Skills to draw their attention to the Committee's recommendations relevant to the Research Councils and funding for forensic science research. Research Councils UK will respond separately to the Committee on the research funding issues.

The UK's criminal justice system will continue to be fully supported by the necessary technology, with research and development driven by the commercial providers in response to the needs of the CJS. In December 2012 the Home Office asked a number of forensic service providers on the NFFNG framework to provide information on what proportion of turnover is reinvested in R&D. Responses indicated spending in 2011/12 ranging from thousands of pounds in small businesses up to over £3 million in the largest providers. From the information provided by FSPs during the last tender process in 2012, we are aware of active R&D in a range of areas, including the examination/analysis of drugs, toxicology, DNA, footwear, trace evidence, firearms & documents.

We do not believe the measures of research and development capability proposed by the Committee are feasible, or useful. As the Silverman Review points out, forensic science is not a single well-defined discipline. Research in almost any subject area may have current or potential forensic science applicability. Therefore it is problematic to construct a meaningful categorisation of peer-review papers and citations relevant to forensic science to provide a meaningful measure of output and impact, or to quantify forensic science research funding more widely.

Scientific staff of the FSS

Committee comments

25. We recognise the frustrations of ex-FSS scientists who have been employed by other organisations and found that their skills are not being fully exploited. However inevitable it may have been that re-employed scientists would not utilise all their previous skills in working for a new organisation, it still represents a loss of intellectual wealth in forensic science. (Paragraph 88)

Response

The Government's priorities are clear: to ensure police have the services they need to solve crime, and to provide value for public money. Employment of scientific staff therefore has to reflect the size, shape and make-up of the forensic market that the police and CJS require. A commercial market will change to meet the requirements of its customers, and the role of scientific staff has to adapt

accordingly. If there is demand for a skill or expertise, it will be provided, but continuing to pay to support services or expertise that are no longer in demand would not represent value for money for police forces or the CJS.

Committee comments

26. The Government is wrong to assume that forensic science capacity, once lost, can be quickly built up if necessary. During our visits, we heard that once leaving forensic science, many experienced scientists would be unable or unwilling to re-enter it. Furthermore, junior forensic scientists entering the profession will not have the years of experience and training that was characteristic of many of the scientists that have now left the profession. (Paragraph 91)

Response

Our assessment of forensic capacity is accurate, and is not based on assumptions but on knowledge of the commercial market and previous success in dealing with changing capacity. Forensic service providers are able to manage any potential loss of contracts and of critical expertise through succession planning, in the same way as any other business. There have been several recent examples of rapid expansion of providers to meet new demand, which has included recruiting and training scientific staff.

Forensic Archive Ltd

Committee comments

27. The Government should explain the whereabouts and arrangements for access to the FSS's databases and collections that are not part of Forensic Archive Ltd. (Paragraph 94)

Response

All collections of CJS value have been maintained and are still available. During the wind down of FSS, consideration was given to all of FSS's collections and reference materials, including databases. A Committee including FSS scientists reviewed the reference collections. Those which were considered to be of significant CJS value were transferred to appropriate organisations. This included the FSS Firearms and Ammunition materials which were passed to the Metropolitan Police and to the National Ballistics Intelligence Service (NABIS). FSS's drugs database was passed to the Serious and Organised Crime Agency and the Drug Driving data to the Department for Transport.

The Committee mentioned in their report the literary database (FORS) which had been requested by the Forensic Science Society (FSSoc). The database was passed to the FSSoc on 1 May. It is now working on determining the best way to make the data available to the forensic community.

The wood database no longer exists, however the staff of the Archive are not aware of a single case in which it was used and there have been no requests to access it since the Archive was set up. The Archive retains the consolidated glass elemental database. There have been no requests to use it since the FSS was wound down.

Forensic Archive holds a list of databases and reference collections including those which are not held in archive. The forensic science community is aware of how to contact the Archive and request access to materials.

Committee comments

28. We are pleased that the FSS's archives were not fragmented and are currently being administered by Forensic Archive Ltd (FAL). However, we consider that the Government must recognise the additional costs being incurred by public bodies in obtaining external scientific advice to support requests for archived material. There would be merit in FAL employing scientific experts to provide that service if overall public savings could be made and the CJS better served. (Paragraph 99)

29. We would be in favour of Forensic Archive Ltd or its successor remaining a public body as it has little commercial value but is of significant important to criminal justice. (Paragraph 102)

Response

The Government does not agree that the FAL should provide scientific experts. The current system ensures the highest possible level of expertise is received, as well as providing better value for money. Issues relating to the function of the Forensic Archive are considered by the Archive Working Group. This body has members representing FAL, the police, the Criminal Cases Review Commission, the Forensic Science Regulator, the Crown Prosecution Service and the Home Office. The Working Group has given careful consideration to the issue of scientific support services and concluded that it would not be practical or appropriate for FAL to offer such services at this time. A wide range of expertise would be required including biologists, DNA experts, chemists, firearms experts etc., and not a single expert. State of the art external forensic advice is available from commercial forensic suppliers.

The Archive will be subject to review in 2015, when its status and functions can be considered and decisions taken on its longer-term future.

Committee comments

30. We and the Government agreed that the FSS's archives should not be fragmented due to the adverse potential impacts on the criminal justice system (CJS). The current situation, whereby Forensic Archive Ltd oversees the FSS's historic archives is in accordance with that consensus. However, it is a historic archive and no new materials are being added. Private FSPs and some police forces manage their own archives (and did so when the FSS existed), and it is to these archives that materials from cases have been added to since May 2012. This is fragmentation by stealth; FAL's archives will become increasingly redundant with time and all post-2012 case files and materials will be held in different locations, under different indexing systems, across the country. In our view, there are two available options to prevent fragmentation posing a risk to the CJS: (i) physical consolidation of all forensic archives, as per our previous recommendation; or if the Government chooses not to pursue such aggregation (ii) virtual consolidation, whereby all archived materials are accessible through a common indexing system, with common access arrangements, regardless of physical location. (Paragraph 108)

Response

We agree that it is important for the police to have accurate and accessible records, including clear and well-maintained indexes of material placed into archive. The system we have in place delivers this, without the cost and burden on the police that would be imposed by the two options proposed by the Committee. We do not accept that the current system poses a risk to the CJS.

The most important consideration for a forensic archive is that the material can be linked to all of the other evidence in the case including witness statements, the victim's complaint and the other records of the investigation. This is achieved by any well run archiving system. The storage of material from disparate cases from around the country in a single archive does not, of itself, add value.

Expanding the Archive to hold all scientific case materials for England and Wales would result in increased costs for archive accommodation and staff, disruption to business as usual while materials were transported from providers and forces, indexed and merged with the existing archive and cause inconvenience to forces currently preferring to retain access to materials locally.

We will continue to explore the best approach to managing the Archive and supporting forces in the longer term. However it is not proportionate in both cost and use of police resources to design a new indexing solution to provide a national database of forensic science archives or to seek to create a single national archive.

Committee comments

31. In addition, it must be clearer what quality standards should be applied in order to archive materials. ACPO and the FSR should produce contemporary guidance to be followed by all police forces and private FSPs that retain materials. (Paragraph 109)

Response

The Forensic Regulator, in consultation with the police and Crown Prosecution Service (CPS) is producing new guidance for police forces and FSPs which will address issues relating to storage of archived material.

Committee comments

32. It was not clear whether FAL would be expected to accommodate the contents of an FSP's archive if that FSP failed or withdrew from the forensics market. We invite the Government to comment on this. (Paragraph 110)

Response

The Government has all the necessary contingencies in place to deal with the unlikely event of a supplier withdrawal, and, as the Committee acknowledges, has already been successful in transferring material following the closure of the FSS.

The NFFNG terms and conditions have provisions on exit from the market, including on-going storage, access and/or transfer to other organisations.

In the event that a forensic service provider withdrew from the market, the management of CJS materials would be an important consideration in the transition arrangements from the contracts which they held with forces. The Government would not expect FAL to step in.

However FAL is a source of expertise for forces on archiving matters. In the unlikely event of a supplier failure the expertise of FAL could also be drawn on in response, as well as options including additional short term storage.

A strategy for forensic science

Committee comments

34. Forensic science provides evidence to the CJS and therefore any Government has a duty to protect its health in the short and long term. In our view, this requires a strategy and knowledgeable Ministerial oversight. (Paragraph 113)

35. Minutes of the Forensic Policy Group's meeting are not published and therefore it is not clear what discussions are taking place within Government on long-term strategy. It is also unclear how the Government will manage the risk of further market instability, for example if a major FSP pulls out of the forensics market. The role and scope of the Forensic Policy Group should be clarified, including whether it includes forensic science R&D. (Paragraph 115)

36. In the absence of a commitment to a strategy, the Government runs the risk of continuing the pattern of short-sighted decision-making that led to the demise of the FSS and the creation of an unstable market. This may also jeopardise the criminal justice system and R&D, although it is too early to measure the full effects. We strongly suggest that it addresses the following matters:

b) Research and development: the shortage of funding for R&D activity and its patchy nature means that the UK will struggle to maintain its excellent reputation in forensic science. More importantly, the UK, despite its worldwide reputation in this field, risks falling behind on the capitalisation of new research and technologies, which again could have adverse effects on the criminal justice system. The Government should work with the forensic science community to determine future research needs and opportunities and accordingly allocate funding for collaborative research projects around these priorities.

c) Quality standards: there must be a level playing field between those who conduct forensic tests for the police, prosecution and defence. In particular, the police must work to the same quality standards as they demand from external forensic science providers.

d) The Forensic Science Regulator: the disparate nature of forensic science provision across the public and private sector means that the role of the FSR now needs a statutory underpinning. The current FSR has done an excellent job in raising the profile of forensic science quality standards during his tenure, and this must be continued.

e) The forensics market: We have no objection to private sector provision in principle, so long as private FSPs work to sufficient quality standards. However, there is concern about the future of the forensics market. The forensics market's

customers are overwhelmingly from the public sector and therefore the Government has a legitimate interest in ensuring it receives value for money. This includes better accounting of police expenditure. It would be helpful for FSPs if the Government and police were clearer about their projected future spend and forensic science needs. Private FSPs are now the main suppliers of forensic science services in England and Wales and their success and willingness to invest further in forensic science will be diminished if the Government does not take steps to stabilise the market with a clear strategy. (Paragraph 116)

Response

The Government strongly disagrees that short sighted decision making is taking place or that the criminal justice system is being placed in jeopardy.

The Government is committed to reducing crime and bringing offenders to justice. In order to achieve this many initiatives and strands of work are brought together. The fact that there is no written strategy in one of these areas (forensics) does not prevent work in this area to achieve the common goal. The police, forensic providers, and the Government work together continually to improve forensic processes and so reduce crime and bring offenders to justice. The electronic transmission of fingerprints taken from crime scenes to fingerprint bureau, the Forensic Science Regulator's codes of practice and the use of mobile devices to check the fingerprints of those stopped in the field are all major programs in forensics delivered to achieve the common goal without a written strategy.

The Government is drawing up a biometric and forensic strategy to be completed by the end of the year. It is bringing together the views of Government departments (Home Office, Ministry of Justice, the Ministry of Defence, the Department of Business Innovation and Skills and the Department of Health), the police, the Association of Forensic Service Providers and the Forensic Science Society. It is important to appreciate the extent and range of the use of forensic science; how it is related to biometrics; how it is used across Government and the ways it protects the public, including our service personnel and contributes to a safe society. Forensic science and biometrics make significant contributions not only to reducing crime, bringing offenders to justice and exonerating the innocent, but are also key to securing our borders and protecting the public from terrorism. Our strategy will build on the work already taking place to address research and development and the forensics market. We have already moved to deliver a level playing field in quality standards and a stronger Regulator through our consultation launched today, and this will also form part of our strategy going forward. However, as set out above, drawing up a forensic strategy based only upon the commercial forensics market and the police use of forensic science to identify material from crime scenes is unlikely to be effective, as it is only part of a much larger picture that needs to be managed and co-ordinated. Our strategy will bring far wider cohesion and co-ordinate the delivery of more effective, economical, higher quality forensic and biometric systems and processes.

A key part of this strategy is the governance arrangements for biometrics and forensic science across Government. The Forensic Policy Group within the Home Office is leading on the development of this strategy and delivery of this strategy will inevitably result in the Forensic Policy Group changing into a wider, more representative group. Once this change has taken place the strategy and minutes of the new group will be published.



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